Transfer liability of employees

3927. SHRI A. NALLASIVAN: Will the PRIME MINISTER be pleased to refer to answer to Unstarred Question 434 given in the Rajya Sabha on the 29th April, 1993 and state:

(a) whether the judgement of the Central Administrative Tribunal had held that incorporation of All India Transfer Liability clause join the offer of appointment is justified;

(b) whether the statement of Government made before the Central Administrative Tribunal, Calcutta that members of Group of C & D staff of DGQA do not have All India Transfer Liability, could be confined only to AIR, Port Blair;

(c) whether the transfer of an employee is incidence of service; if so, why All India Transfer Liability clause is incorporated only in respect of Statutory Rules and Orders 264/79 and 36/82; and

(d) how do Government confirm whether a post is transferable or not with reference to proviso to Article 309 of the Constitution of India as transfer of an employee is a condition of service in terms of the declared law by Supreme Court— (1989) 2SCC 602 & 1988(2) SCC 35?

THE MINISTER OF STATE IN THE MINISTRY OF DEFENCE (SHRI MALLIKARJUN): (a) The Central Administrative Tribunal, Bangalore in OA No. 415/91 has held that transfer by shifting an employee from one place of working to another is an incidence of service, and upheld the policy for transfer of Group 'C' employees of DGQA.

(b) The case before CAT, Calcutta did not pertain to employees of DGQA/Ministry of Defence. Moreover as stated in answer to Rajya Sabha Unstarred Question No. 434 dated 29-3-93. the judgement in this case is not relevant in the matter.

(c) and (d) Yes Sir. The transfer of an employee is an incident of service as held by the Supreme Court in Union of India vs H N Kritania (1989) 3SCC 455. Whether a job is transferable or not is decided by the executive authority based on the functional requirements of the organisation. It is, however, not necessary to lay down this condition under proviso to Article 309 of the Constitution of India.

All India transfer liability conditions in DGQA

3928. SHRI A. NALLASIVAN: Will the PRIME MINISTER be pleased to refer to answer to Unstarred Question 434 given in the Rajya Sabha on the 29th April, 1993 and state:

(a) whether it is a fact that Supreme Court has held that transfer of an employee from one place to other is a condition of service;

(b) whether it is also a fact that Central Administrative Tribunal (CAT), Bangalore had held that 'transfer by shifting of an employee is an incidence of service';

(c) if so, which of the two judgements is followed by Government in trasferring Group C & D employees of DGQA; and

(d) under which statutory rule a Group 'C' employee of DGQA organisation is transferable on All India basis?

THE MINISTER OF STATE IN THE MINISTRY OF DEFENCE (SHRI MALLIKARJUN): (a) to (d) Both the judgements make it clear that employees are liable to be transferred from one place to another. By virtue of the responsibilities assigned to the Directorate General of Quality Assurance (DGQA), and based on the functional requirements of the office, the incumbents of the posts in DGQA have all India service liability and are transferable from one Estt. to another. This is reflected in the offers of appointment also and, therefore, the employees are well aware of this liability. It has not been found necessary to make statutory rules for this purpose.

Anomalies in One Rank One Pension Scheme

3929. SHRI DILIP SINGH JUDEV: Will the PRIME MINISTER be pleased to state:

(a) whether the One Rank One Pension demand of the ex-servicemen of the Army has been fully satisfied;

(b) are there any anomalies in Government's formula to meet their demand;

(c) what is the number of ex-servicemen on pension today; and

(d) what would be the recurring expenditure per annum if their demands are accepted?

THE MINISTER OF STATE IN THE MINISTRY OF DEFENCE (SHRI MALLIKARJUN): (a) to (d) Government have not accepted the demand of ex-servicemen for One Rank One pension. However, a scheme for One Time Increase (OTI) in pension to the Armed Forces personnel who retired before 1-1-86 had been sanctioned w.e.f. 1-1-92 in pursuance of the unanimous recommendations of the High Level Empowered Committee (HLEC) which had been set up by Government to examine the demand of One Rank One Pension. The said High Level Empowered Committee had left the claim of certain categories of Armed Forces pensioners such as re-employed pensioners, State